



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2014-0342; FRL-9921-66-Region 3]**

**Approval and Promulgation of Implementation Plans; Pennsylvania; Pennsylvania Regional Haze State Implementation Plan Revision - Particulate Matter Best Available Retrofit Technology Limit for the Cheswick Power Plant in Allegheny County**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Pennsylvania State Implementation Plan (SIP) submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP). This SIP revision addresses an error in the Best Available Retrofit Technology (BART) requirements for Boiler Number 1 of the Cheswick Generating Station (Cheswick) in Allegheny County. EPA is approving the portion of Pennsylvania's SIP revision addressing the particulate matter (PM) BART requirements as it is in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for BART.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0342. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (*e.g.*, sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (*e.g.*, sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and in some cases, ammonia (NH<sub>3</sub>) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form fine particulate matter (PM<sub>2.5</sub>), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. Section 169A of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution" and requires SIPs for states whose emissions may reasonably be anticipated to cause

or contribute to visibility impairment in Class I areas to contain emission limits, compliance schedules and other measures as may be necessary to make reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A regional haze SIP generally must include, among other measures, source-specific BART emission limits for each source subject to BART. A detailed discussion of the requirements of the regional haze program can be found in our earlier notice proposing action on Pennsylvania's regional haze SIP. *See* 77 FR 3984 (January 26, 2012).

On December 20, 2010, PADEP submitted revisions to the Pennsylvania SIP to address regional haze requirements as required by the CAA. Among the measures included in the SIP submission and approved by EPA for the SIP on July 13, 2012 (77 FR 41279) was a coarse PM (PM<sub>10</sub>) BART emission limit for Cheswick of 361 tons per year (tpy). PADEP has determined that this limit was set in error and submitted a SIP revision on March 25, 2014 to correct the PM<sub>10</sub> BART emission limit. On October 30, 2014 (79 FR 64539), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the NPR, EPA proposed approval of the portion of Pennsylvania's March 25, 2014 SIP revision addressing the PM<sub>10</sub> BART requirements as it is in accordance with the requirements of the CAA and EPA's rules for BART.

## **II. Summary of SIP Revision**

PADEP explained in its March 25, 2014 SIP revision that the PM<sub>10</sub> BART emission limit of 361 tpy for Boiler No. 1 at Cheswick included in the December 20, 2010 regional haze SIP submission was found to be incorrect during the public comment period for EPA's proposed

approval of the regional haze SIP. The December 20, 2010 regional haze SIP submittal included the 361 tpy PM<sub>10</sub> limit because at the time PADEP was assessing the appropriate BART limits, it decided to base the PM<sub>10</sub> BART limit on the May 4, 2009 BART review memo for Cheswick which referred to conditions of certain permits for Cheswick as BART, and the review memo listed Cheswick's potential to emit at 361 tpy. However, PADEP later discovered the PM<sub>10</sub> potential to emit included in the May 4, 2009 BART review memo was incorrect and that Cheswick's permits included a PM<sub>10</sub> emission limit of 180 pounds per hour (lbs/hr). The March 25, 2014 SIP revision replaces the incorrect PM<sub>10</sub> emission limit of 361 tpy with the correct BART PM<sub>10</sub> emission limit for Boiler No. 1 of 180 lbs/hr, which includes condensable particulate matter, but excludes sulfuric acid mist (H<sub>2</sub>SO<sub>4</sub>).

The March 25, 2014 SIP revision submittal included a revised BART review memo for Cheswick which recommended the PM<sub>10</sub> emission limit of 180 lbs/hr as BART for Cheswick based largely on minimal visibility impacts to Class I areas from Cheswick and installed pollution controls at Cheswick in accordance with 40 CFR part 51, appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule (the BART Guidelines). The rationale for EPA's proposed action approving the PM<sub>10</sub> BART revision for Cheswick and finding the SIP revision would not interfere with visibility improvement or any CAA requirement is explained in detail in the NPR as in accordance with sections 110, 169A, and 169B of the CAA and with the regional haze regulations at 40 CFR 51.308 and will not be restated here. No adverse public comments were received on the NPR.

### **III. Final Action**

EPA is approving a portion of Pennsylvania's March 25, 2014 revision to its regional haze SIP which revises the PM<sub>10</sub> BART emission limitation for Cheswick. EPA will take later, separate action concerning the remainder of the March 25, 2014 SIP revision which included revised BART emission limits for sulfur dioxide and nitrogen oxides. This conclusion is based on our review of the March 25, 2014 SIP revision as well as Pennsylvania's regional haze SIP including technical data and supporting analysis. The PM<sub>10</sub> emission rate of 180 lbs/hr (including condensables and excluding H<sub>2</sub>SO<sub>4</sub>) supersedes the previous PM<sub>10</sub> BART determination for Cheswick included in the December 20, 2010 regional haze SIP which EPA approved July 13, 2012 (77 FR 41279). EPA finds Pennsylvania's PM<sub>10</sub> BART determination for Cheswick reasonable and finds the revision will not interfere with visibility improvements or any other CAA requirements set forth in sections 110(l), 169A, and 169B of the CAA, as well as in our implementing regulations at 40 CFR 51.308.

#### **IV. Statutory and Executive Order Reviews**

##### **A. General Requirements**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule revising a BART limitation for Cheswick does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose

substantial direct costs on tribal governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

## **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action revising the PM<sub>10</sub> BART emission limitation for Cheswick for Pennsylvania's regional haze SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 30, 2014.

William C. Early,  
Acting Regional Administrator,  
Region III.



Therefore, 40 CFR part 52 is amended as follows:

**PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

**Subpart NN Pennsylvania**

2. In §52.2020, the table in paragraph (e)(1) is amended by adding an entry under “Regional Haze Plan” to read as follows:

**§52.2020 Identification of plan.**

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(e)\*\*\*

(1) \*\*\*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *				
Regional Haze Plan	Statewide	3/25/14	<u>[Insert the date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	Revises PM <sub>10</sub> Best Available Retrofit Technology emission limit for Boiler No. 1 of the Cheswick Power Plant in Allegheny County.
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